

National Offshore Safety Advisory Committee Bylaws

ARTICLE I AUTHORITY

The Secretary of Homeland Security has established the National Offshore Safety Advisory Committee (hereafter Committee) under the authority of 6 U.S.C. section 451. The Committee shall operate in accordance with the provisions of the Federal Advisory Committee Act (FACA) (5 United States Code, Appendix).

ARTICLE II PURPOSE

The Committee provides advice and recommendations to the Secretary through the Commandant and the Assistant Commandant for Prevention Policy (CG-5P) of the United States Coast Guard on matters relating to the activities directly involved with or in support of the exploration of offshore mineral and energy resources insofar as they relate to matters within Coast Guard jurisdiction.

ARTICLE III MEMBERSHIP AND MEMBER RESPONSIBILITIES

NOSAC will be composed of 15 members who are appointed by and serve at the pleasure of the Secretary of Department of Homeland Security (DHS). In addition, the Commandant of the Coast Guard may request the Bureau of Safety and Environmental Enforcement, the Environmental Protection Agency, the Maritime Administration, the Department of Energy, and the Occupational Safety and Health Administration each to designate a representative to participate as a non-voting observer on the Committee. Except for the member representing the general public, each member shall have expertise and/or knowledge, and experience regarding the technology, equipment and techniques that are used or are being developed for use in the exploration for and the recovery of offshore mineral resources as follows:

Section 1. Composition.

- a. Two members representing companies, organizations, enterprises or similar entities engaged in the production of petroleum;
- b. Two members representing companies, organizations, enterprises or similar entities engaged in offshore drilling;
- c. Two members representing companies, organizations, enterprises or similar entities engaged in the support, by offshore supply vessels or other vessels, of the offshore industry operations;
- d. One member representing companies, organizations, enterprises or similar entities engaged in the construction of offshore facilities;
- e. One member representing companies, organizations, enterprises or similar entities providing diving services to the offshore industry;
- f. One member representing companies organizations, enterprises or similar entities providing safety and training services to the offshore industry;

- g. One member representing companies, organizations, enterprises or similar entities providing subsea engineering, construction or remotely operated vehicle support to the offshore industry;
- h. Two members representing employees of companies, organizations, enterprises or similar entities engaged in offshore operations, one of whom should have recent practical experience on vessels or units involved in the offshore industry;
- i. One member representing companies, organizations, enterprises or similar entities providing environmental protection, compliance or response services to the offshore industry;
- j. One member representing companies, organizations, enterprises or similar entities engaged in offshore oil exploration and production on the Outer Continental Shelf of Alaska; and
- k. One member of the general public.

Section 2. Appointment.

- a. Members of the Committee are appointed by and serve at the pleasure of the Secretary upon the recommendation of the Commandant of the Coast Guard. Appointments are personal to the member and cannot be transferred to another individual. Members may not designate someone to attend in their stead, participate in discussions, or vote.
- b. Members of NOSAC, with the exception of the member appointed under Article III, Section 1, paragraph k, are appointed as Representative Members.
- c. The member appointed under Article III, Section 1, paragraph k will be considered a Special Government Employee (SGE) as defined by Section 202(a) of Title 18, United States Code. An SGE member is subject to Federal conflict of interest laws and Government-wide standard of conduct regulations and must annually file financial disclosure report and complete required ethics training.

Section 3. Terms of Office.

- a. Members shall serve terms of office of up to three years. Notwithstanding special circumstances, approximately one-third of members' terms of office will expire each year. A member appointed to fill an unexpired term serves the remainder of that term. In the event the Committee terminates, all appointments to the Committee will terminate; and
- b. No member may serve for more than three (3) consecutive three-year terms.

Former Committee members who have not served on the Committee for a least one (1) year may apply for appointment.

Section 4. Certification of Non-Lobbyist Status. Members of the National Offshore Safety Advisory Committee may not be registered lobbyists. If at any time after appointment, a NOSAC member registers as a Federal lobbyist with the Secretary of the U.S. Senate or with the Clerk of the House of Representatives, he or she must immediately inform the Designated Federal Officer (DFO). Also, before October 1st of each year, each member of NOSAC appointed on or before January 1 of that year must (1) complete and sign the DHS Declaration Regarding Lobbyist Status Form certifying that he or she is not registered as a Federal lobbyist or (2) inform the DFO that he or she does not qualify to complete the form. NOSAC members must submit this Declaration to the DFO. Members who register as a lobbyist after the appointment or reappointment to NOSAC will be replaced. DFO will assure that candidates for appointment are not lobbyists registered under section 4 of the Lobbying Disclosure Act of 1995, 2 U.S.C. 1603.

Section 5. Security Clearances. Members of the Committee are not required to have security clearances.

Section 6. Members' Responsibilities. Because the membership of the Committee is constructed to balance as many aspects and viewpoints of the industry as possible, member attendance and participation at meetings is vital. Members are expected to personally attend and participate at Committee meetings. The Commandant of the Coast Guard shall recommend to the Secretary that any member who is unable to fulfill their responsibility be replaced on the Committee.

Members of the Committee may be recommended for removal for reasons such as, but not limited to:

- a. Missing two consecutive meetings without giving a valid reason for missing that is acceptable to the DFO, or not participating in the Committee's work;
- b. Registering as a lobbyist after appointment;
- c. Engaging in activities that are illegal or violate the restrictions on members' activities as outlined below.

Section 7. Restriction on Members' Activities.

- a. Members may not use their access to the Federal Government as a member of this Committee for the purpose of soliciting business or otherwise seeking economic advantage for themselves or their companies. Members may not use any non-public information obtained in the course of their duties as a member for personal gain or for that of their company or employer. Members must hold any non-public information in confidence.
- b. The Committee as a whole may advise the agency on legislation or recommend legislative action. In their capacities as members of the National Offshore Safety Advisory Committee, individual members may not petition or lobby Congress for or against particular legislation or encourage others to do so.

- c. Members of the Committee are advisors to the agency and have no authority to speak for the Committee, the Coast Guard or for the Department outside the Committee structure.
- d. Members may not testify before Congress in their capacity as a member of the Committee. If requested to testify before Congress, members of the Committee:
 - 1. Cannot represent or speak for the Committee, DHS, any agency, or the Administration in their testimony;
 - 2. Cannot provide information or comment on Committee recommendations that are not yet publicly available;
 - 3. May state they are a member of the Committee; and,
 - 4. May speak to their personal observations as to their service on the Committee.
- e. If speaking outside the Committee structure at other forums or meetings, the restrictions in section d. also apply.

ARTICLE IV OFFICIALS

Section 1. Chairperson and Vice-Chairperson. The Chair and Vice-Chair are appointed by the Assistant Commandant for Prevention Policy (CG-5P) of the Coast Guard. A nominating ad hoc committee of 5 members consisting of current committee members and those not eligible to serve as the Chair or Vice-Chair due to term limitations listed in Article III, Section 3.b. will submit a primary and alternate list of candidates for Chair or Vice-Chair position to the committee. The NOSAC committee will vote to endorse and submit nominations for Chair and Vice-Chair to the Assistant Commandant for Prevention Policy (CG-5P) of the Coast Guard no later than six months prior to the end of the incumbents' terms of office.

The Chair shall conduct each meeting in general accordance with Roberts' Rules of Order, provide an opportunity for participation by each member and by public attendees, ensure adherence to the agenda, maintain order and prepare any recommendations to be submitted to the Coast Guard. The Chair shall also certify minutes within 90 days of the meeting. The Vice-Chair will act as Chair in the absence or incapacity of the Chair or in the event of a vacancy in the office of the Chair. The term of office of the Chair and Vice-Chair will be 2 year staggered terms such that each position's term does not end at the same time.

Section 2. Designated Federal Officer: The Designated Federal Officer (DFO) serves as the Department's agent for all matters related to the Committee and is appointed by the Director, Commercial Regulations and Standards (CG-5PS). In accordance with the provisions of the FACA, the DFO must:

- a. Approve or call meetings of the Committee and its subcommittees;
- b. Approve agendas for Committee and subcommittee meetings;
- c. Attend all meetings;
- d. Adjourn meetings when such adjournment is in the public interest; and,
- e. Chair meetings of the Committee when directed to do so by the Director, Commercial Regulations and Standards.

In addition, the DFO is responsible for assuring administrative support functions are performed, including the following:

- a. Notifying members of the time and place of each meeting;
- b. Tracking all recommendations of the Committee;
- c. Maintaining the record of members' attendance;
- d. Preparing the minutes of all meetings of the Committee's deliberations, including subcommittee and working group activities;
- e. Attending to official correspondence;
- f. Maintaining official records and filing all papers and submissions prepared for or by the Committee, including those items generated by subcommittees and working groups;
- g. Reviewing and updating information on Committee activities in the Shared Management System (aka, FACA database) on a monthly basis;
- h. Acting as the Committee's agent to collect, validate and pay all vouchers for pre-approved expenditures; and
- i. Preparing and handling all reports, including the annual comprehensive review as required by FACA.

Section 3. Alternate Designated Federal Officer: An Alternate Designated Federal Officer (ADFO) serves as an assistant to the DFO and performs the functions of the DFO as required by FACA in the DFO's absence. An ADFO is appointed by the Office Chief, Operating and Environmental Standards (CG-OES).

ARTICLE V MEETING PROCEDURES

Public meetings are the prescribed forum in which the NOSAC Committee conducts business, engages in discussion and officially receives and responds to tasking issued by the DFO. As such, meetings shall be formally structured and shall be conducted in accordance with the requirements of the NOSAC Charter and the NOSAC Bylaws at all times.

Section 1. Meeting Schedule and Call of Meetings. The Committee is expected to meet at least twice a year (usually every six months). Additional meetings may be called by the DFO. The DFO or ADFO must attend each meeting of the Committee.

The DFO shall publish a notice of the Committee's meeting in the *Federal Register* a minimum of 15 calendar days prior to the meeting.

All meetings of working groups and subcommittees must be approved in advance by the DFO and the DFO must attend such meetings.

Section 2. Agenda. Agendas for each Committee meeting shall be developed by the DFO in consultation with the Committee Chair and or Vice-Chair. Once an agenda has been approved by the DFO, the DFO will be responsible for distributing the final agenda to the Committee. The DFO will be responsible for ensuring that for each

meeting the agenda is published in the *Federal Register* a minimum of 15 calendar days in advance of the meeting date.

- Section 3. **Quorum.** A quorum of the Committee is fifty percent plus one of the appointed Committee members. A quorum of the Committee is required to vote on issues being addressed during a Committee meeting. The DFO will determine if a quorum exists at the beginning of each meeting of the Committee. If a quorum does not exist, the meeting may continue, but no action may be taken by the members present.
- Section 4. **Tasks.** The DFO retains sole authority for assigning all task statements to the Committee for consideration. The DFO may receive suggestions from Committee members, the public or the Agency in the formation of a Task Statement. It is the responsibility of the DFO to determine if the task is in accordance with the duties of the Committee as specified in the Committee's approved Charter. If, after review, the DFO determines a planned task is in accordance with the duties of the Committee, the DFO will place the presentation of the proposed task on the agenda for the next meeting. The DFO shall also ensure that a copy of the assigned task is placed on the Committee website in advance of the Committee meeting to ensure the public has an opportunity to view the proposed task statement.
- Section 5. **Voting Procedures.** A quorum is required for any action by the Committee. Any recommendation made by the Committee to the Coast Guard must be approved by a majority vote of the Committee.
- Only Committee members present at a meeting shall vote on issues under consideration. No proxy votes shall be allowed. All votes shall be recorded in the minutes of the meeting.
- Section 6. **Minutes.** The DFO will, in consultation with the Chair or Vice-Chair, prepare minutes of each meeting and distribute copies to each Committee member. Minutes of open Committee meetings that have been certified by the Chair will be posted on the Committee's public website. Minutes of closed meetings will also be available to the public upon request subject to the withholding of matters about which public disclosure would be harmful to the interests of the Government, industry, or others, and which are exempt from disclosure under the Freedom of Information Act.
- The minutes will include a record of:
- a. The time, date, and place of the meeting;
 - b. A list of all attendees including members, staff and the public;
 - c. An accurate description of each matter discussed and the resolution, if any, made by the Committee;
 - d. Copies of reports or other documents received, issued, or approved by the Committee; and

- e. An accurate description of public participation, including oral and written statements provided.

The DFO shall assure that the Chair or Vice-Chair certifies the minutes within 90 calendar days of the meeting to which they relate.

Section 7. Open Meetings. Unless otherwise determined in advance, all meetings of the Committee shall be open and announced to the public in a notice published in the *Federal Register* at least fifteen calendar days before the meeting. Members of the public may attend any meeting or portion of a meeting that is not closed to the public and may offer oral comment at such meeting. Meetings will include a period for oral comments unless it is clearly inappropriate to do so. Members of the public may submit written statements to the Committee. To submit a written statement, members of the public should provide the written statement to the DFO in advance of a Committee meeting or they may present the material to the Committee during the 'public comment' portion of the meeting. All materials provided to the Committee members in advance of the meeting will be posted to the Committee's public website and made available to the public when they are provided to the members. Such materials, including any submissions by members of the public, are part of the meeting record.

Section 8. Closed Meetings. All or parts of meetings of the Committee may be closed in limited circumstances and in accordance with applicable law. No meeting may be partially or fully closed unless the component head issues a written determination, reviewed and approved by the CMO, that there is justification for closure under the provisions of subsection (c) of 5 United States Code, 552b, the Government in the Sunshine Act (Sunshine Act). Where the DFO has determined in advance that discussions during a Committee meeting will involve matters about which public disclosure would be harmful to the interests of the government, industry, or others, an advance notice of a closed meeting, citing the applicable exemptions of the *Government in the Sunshine Act*, will be published in the *Federal Register*. The notice may announce the closing of all or just part of a meeting. If, during the course of an open meeting, matters inappropriate for public disclosure arise during discussions, the DFO or Chairman (or Vice-Chair) will order such discussion to cease and will schedule it for a future meeting of the Committee that will be approved for closure. No meeting or portion of a meeting may be closed without prior approval and notice published in the *Federal Register* at least 15 calendar days in advance. Closed meetings can only be attended by DFO, Committee members, and necessary agency staff members. Presenters must leave immediately after giving their presentations and answering any questions.

ARTICLE VI EXPENSES AND REIMBURSEMENTS

Financial support for meetings shall be provided by the Office of Operating and Environmental Standards (CG-OES). All expenditures associated with the Committee must be approved by the

DFO in advance of being obligated. No Committee member shall be reimbursed for travel or per diem expenses.

ARTICLE VII ADMINISTRATION

The Office of Operating and Environmental Standards (CG-OES) shall be responsible for providing financial and administrative support to the Committee. The DFO manages all Committee affairs and will provide necessary clerical support.

ARTICLE VIII SUBCOMMITTEES

Once a new Task Statement has been assigned to the Committee by the DFO, the Committee shall establish a subcommittee and vote to designate a Committee member (or members) to serve as the subcommittee chair (or co chairs) to prepare a formal response for the assigned tasking. The subcommittee chair shall be responsible for organizing the subcommittee, preparing meeting minutes from the subcommittee meetings, keeping records and for presenting the subcommittee's recommendations to the Committee for formal approval. The subcommittee chair may invite Committee members and non-members to serve on a subcommittee.

The subcommittee must be chaired by a member of the Committee. Subcommittees may not work independently of the Committee and must present their work to the Committee for the full deliberation and discussion by the Committee. Subcommittees have no authority to make decisions on behalf of the Committee or the Agency and may only report directly to the Committee. The membership of subcommittees shall be balanced relevant to the subcommittee's work. Subcommittees and member terms on the subcommittees shall terminate upon presentation of their final work to the Committee.

ARTICLE IX RECORDKEEPING

The DFO shall be responsible for maintaining all records of the Committee and its formally or informally established subcommittees in accordance with General Records Schedule 26, Item 2 or other approved agency records disposition schedule. The DFO shall also be responsible for ensuring all public records associated with the Committee are placed on the Committee's public website.

Applications for appointments shall be maintained by the DFO and handled in accordance with applicable laws and regulations pertaining to FACA Committees and protection of personal identifying information and the Privacy Act.

ARTICLE X RECOMMENDATIONS AND REPORTING

Recommendations and reports received by the Committee from a subcommittee must be fully discussed, deliberated, and voted on by the full Committee in an open meeting. Reports and/or recommendations from the Committee shall be forwarded to the DFO with a cover letter signed by the Chair (or Vice-Chair) indicating the approval by the Committee and any actions recommended by the Committee.

Reports approved by the Committee and received by the DFO shall be placed on the Committee's public website. The DFO shall provide a bi-annual report to the Committee, during an open meeting, on the status of any recommendations and or reports received by the Committee in the previous two years and what actions have been taken on the recommendations. If a recommendation is related to an ongoing rulemaking initiative, the recommendation of the Committee may also be discussed in the preamble section of the appropriate rulemaking notice published in the Federal Register.

ARTICLE XI BYLAWS APPROVAL AND AMENDMENTS

The DFO may amend these bylaws at any time, and the amendments shall become effective immediately upon approval.

A handwritten signature in blue ink, appearing to read 'R. L. Smith Jr.', is written over a horizontal line.

Robert L. Smith Jr., Commander, US Coast Guard
Designated Federal Officer

Date approved:

The date '23 JAN 14' is handwritten in blue ink over a horizontal line.